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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/679,043

10/03/2003

Gary A. Foos

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1647

7590

11/20/2006

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EXAMINER

COCKS, JOSIAH C

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/679,043

Applicant(s)

FOOS ET AL.

Examiner

Josiah Cocks

Art Unit

3749

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Josiah Cocks
Primary Examiner
Art Unit 3749

Continuation Sheet

Continuation of 3. NOTE:

The proposed additional limitations to claim 1 would result in a claim having a scope not previously considered by the examiner. Accordingly, the proposed amendment would necessarily require further consideration and/or search.

Continuation of item 11. NOTE:

Claim 36

Regarding the Miller reference as applied to claim 36, on pages 14-15 of the response, applicant first asserts that Miller does not show “a valve body having a first inlet configured to receive a fuel, a second inlet configured to receive a fluid.” Applicant’s appears to argue that a fuel has been positively recited in applicant’s claims. The examiner does not agree. As noted in the prior Office action, the examiner does not consider the “first inlet configured to receive a fuel” to be a positive limitation of a fuel. Instead, this limitation has been regarded as requiring only requiring a first inlet that is capable of receiving a fuel. For the reasons previously noted, the first inlet of Miller is considered to meet this limitation.

Applicant also argues that Miller does not show a “lever selectively securable to a first portion of the valve body or a second portion of the valve body opposite the first portion.” The examiner does not agree. Applicant correctly notes that the lever (64) of Miller is connected to handle (62) such that the lever rotates with the handle when reversed. However, despite the connection between the lever (64) and the handle (62) when these components are reversed (i.e.

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compare Figs. 2 and 3) the lever is regarded as being secured to first and second portions of the valve body that opposite one another as recited in applicant's claim.

Applicant does not argue that claim 36 is not properly rejected by the Clinton reference.

Claim 41

Claim 41 has not been applied in the rejections to the claims applied on the basis of the Miller reference. The examiner agrees with applicant that this claim positively recites a "torch" and "combustion tip" within the body of the claim. However, claims 41-43 have been applied in rejections on the basis of the Clinton reference, which shows a torch and combustion tip. The examiner notes that the statement of the grounds of rejection appearing on page 2 of the Office action mailed 6/8/2006 does not reference claims 41-43. However, this is a typographical error, as the limitations of claims 41-43 are clearly addressed in the discussion of the rejection that follows on pages 2-4 of the 6/8/2006 Office action (note particularly pages 3-4).